UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,965	04/17/2001	Alfred C. She	51040.P005	8500

25943 7590 12/20/2005		EXAMINER
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900		TRUONG, THANHNGA B
1211 SW FIFTH AVENUE	ART UNIT	PAPER NUMBER
PORTLAND, OR 97204	2135	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/836,965	SHE ET AL.
	Examiner	Art Unit	
	Thanhnga B. Truong	2135	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>28 November 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, ~~the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended~~.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: 1-13.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed November 28, 2005 have been fully considered but they are still not persuasive.

Applicant argues that:

The combinnation of prior arts still fail to produce "generating in real time a second deciphering round key based on said generated first deciphering round key while said incremental deciphering for a first round is being performed".

Examiner still disargees with the applicant and still maintain that:

The combination of teachings between Wright, Nakumura, and Coppersmith teaches the claimed subject matter. In fact, Wright teaches a first cipher stream generated from a private key negotiated as a result of a public key exchange is partitioned to form a sequence of secondary keys. The secondary keys are then indexed. In one instance, each plaintext data packet is encrypted with a second cipher streams generated from a different one of the secondary keys. In another instance, a second cipher stream generated from a single secondary key is used to encrypt a plurality of plaintext data packets. A new second cipher stream generated from another one of the secondary keys is then used for encryption following each instance of the loss of a ciphertext data packet. The index is communicated with the ciphertext to identify which secondary key is to be used in generating the second cipher stream needed for decryption. With knowledge of the secondary key to be used, re-synchronization (along with new private key negotiation) at each instance of a ciphertext data packet loss is obviated (see abstract).

Although Wright is silent about the real time communication type information and how many rounds of cipher processing have been performed, Nakamura and Coppersmith teaches:
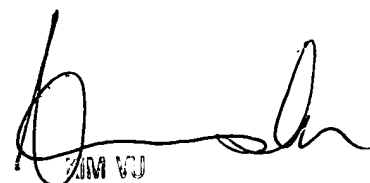
(1)   in multimedia networks for transmitting real-time communication type information which must be encrypted in real time, and storage type information which requires safety-guaranteed encryption and certification of an information source via the same medium, Nakamura's invention is applicable to various other systems, and does not depend on network systems, and kinds of terminals (column 12, lines 18-25 of Nakamura). In addition, encryption/decryption of real-time communication type information by the secret-key system of this embodiment is described more in details in column 6, lines 44-67 through column 7, lines 17 of Nakamura.

(2)   Referring to Figure 3, The first Step 100 is to initialize the iteration counter, "r", to keep track of how many rounds of cipher processing have been performed. At Step 110, a comparison is made between the iteration counter and the number of rounds of processing required. While the iteration counter is less than the number of rounds, the processing will continue on to Step 120. However, if the two values compared are equal, then encryption of the block has completed. It will be understood that the encryption process for each block of data forming the input file is identical, and that the process of Figure 3 is used on each successive block until all blocks of the input file have been encrypted (column 7, lines 48-59 of Coppersmith).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of teaching between Wright, Nakumura, and Coppersmith is sufficient.

In fact, Wright, Nakumura, and Coppersmith do not need to disclose anything over and above the invention as claimed in order to render it unpatentable or anticipate. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claimed limitations.

For the above reasons, it is believed that the rejections should be sustained.

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2